

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

United States Department of Energy --
Western Area Power Administration
(Central Valley Project,
California-Oregon Transmission Project, and
Pacific Alternating Current Intertie)

Docket No. EF05-5011-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(Issued October 11, 2005)

1. In this order, we confirm and approve on a final basis Western Area Power Administration's (Western) rates for power, transmission, and ancillary services.

Background

2. On November 22, 2004, the Deputy Secretary of Energy (Deputy Secretary) filed a request for final confirmation and approval of Western's Rate Schedules CV-F11, CPP-1, CV-T1, CV-NWT3, CV-TPT6, COTP-T1, PACI-T1, CV-RFS3, CV-EID3, CV-SPR3, and CV-SUR3¹ applicable to the sale of power, transmission, and ancillary services for

the Central Valley Project (CVP),² the California-Oregon Transmission Project

¹ Rate Schedule CV-F11 provides for base resource and first preference power, Rate Schedule CPP-1 provides for custom product power, Rate Schedule CV-T1 provides for firm and non-firm point-to-point transmission service, Rate Schedule CV-NWT3 provides for network integration transmission service, Rate Schedule CV-TPT6 provides for third party transmission service, Rate Schedule COTP-T1 provides for firm and non-firm point-to-point transmission service, Rate Schedule PACI-T1 provides for firm and non-firm point-to-point transmission service, and Rate Schedules CV-RFS3, CV-EID3, CV-SPR3, and CV-SUR3 provide for ancillary services.

²The CVP consists of twelve multipurpose hydroelectric projects whose power
(continued)

(COTP),³ the Pacific Alternating Current Intertie (PACI),⁴ and third-party transmission. The Deputy Secretary placed the rates into effect on an interim basis effective January 1, 2005,⁵ and requests final confirmation and approval of the rates for the period January 1, 2005 through September 30, 2009.⁶

3. Western explains that the current rates are not adequate to meet the repayment criteria. Western further explains that an estimated power revenue requirement of \$234 million for January 2005 through September 2009 will meet the repayment criteria. In addition, Western proposes a change in the Revenue Adjustment Clause for the existing CVP firm power rate (in Rate Schedule CV-F10) that will allow Western to make lump-sum payments to customers for their share of the fiscal year 2004 Revenue Adjustment Clause credit. According to Western, the provisional formula rates⁷ will provide sufficient revenue to pay its annual costs, including interest expense, and repay the Federal investment and provide irrigation aid, within the allowable period.

Notice of Filing and Interventions

output is sold to preference customers in the Central Valley of California.

³ The COTP is a 342-mile, 500-kV transmission project that interconnects the Pacific Northwest to California by way of an alternating current intertie.

⁴ The PACI is a 500-kV transmission project of which Western owns a portion of the facilities.

⁵ Rate Order No. WAPA-115, placing the rate schedules into effect on an interim basis, was issued on November 18, 2004, under authority delegated to the Deputy Secretary by Department of Energy Delegation Order No. 00-037.00.

⁶ These rate schedules will supersede the present rate schedules, which were confirmed and approved on a final basis in *United States Department of Energy – Western Area Power Administration, (Central Valley Project and California-Oregon Transmission Project)*, 96 FERC ¶ 62,150 (2001).

⁷ The base resource and first preference power provisional formula rates (in Rate Schedule CV-F11) recover the power revenue requirement through percentages for each first preference and base resource customer. The power revenue requirement for first preference and base resource power is designed to return an annual amount of revenue to meet the repayment of power investment, payment of interest, purchased power, operation and maintenance and other annual expenses, and the repayment of irrigation assistance costs.

4. Notice of the application was published in the *Federal Register*, 70 Fed. Reg. 3,011 (2005), with protests and interventions due on or before January 31, 2005.

5. The City of Redding, California filed a timely motion to intervene, raising no substantive issues. Calpine Construction Finance Company and Calpine Corporation (collectively, Calpine) filed a timely joint motion to intervene and protest. The City of Roseville (Roseville) also filed a timely motion to intervene and protest. The Northern California Power Agency filed an untimely motion to intervene.

6. As an initial matter, Calpine argues that Western failed to grant its request for an extension of time to file comments on the Proposed Rate Order. Calpine states that it needed the additional time to understand the impact of a Western/Sacramento Municipal Utility District (SMUD) sub-control area agreement on Western's Proposed Rate Order and on Western's contractual obligations with its customers. Calpine explains that it does not have an Interconnection Agreement or Control Area Services Agreement with Western that reflects Western's decision to join SMUD's control area. Calpine alleges that, without those agreements in place at the time of the public comment period on Western's Proposed Rate Order, it was precluded from commenting on the allocation of Western's charges for control area services in the Proposed Rate Order.

7. Calpine also raises specific challenges as to Western's rates for "Component 3" charges,⁸ Energy Imbalance charges and Regulation and Frequency Response Service charges, and to Western's failure to include a provision for exempting generators remotely tied to a control area other than Western's or SMUD's control areas from charges for control area services.

8. Roseville challenges Western's rates for Spinning and Non-Spinning Reserves charges and for Network Integration Transmission Service.

Discussion

Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will also grant the unopposed motion to intervene out of time by Northern California Power Authority given its interest

⁸ "Component 3" charges are any charges or credits from the Host Control Area applied to Western for providing service that are passed through to Western's customers in the same manner as Western is charged or credited.

in this proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.⁹

Standard of Review

10. The Secretary of Energy has delegated to the Commission the authority to confirm and approve Western's rates on a final basis,¹⁰ and also established the scope of Commission review. The scope of Commission review is limited to:

whether the rates are the lowest possible to customers consistent with sound business principles;

whether the revenue levels generated by the rates are sufficient to recover the costs of producing and transmitting the electric energy including the repayment, within the period of cost recovery permitted by law, of the capital investment allocated to power and costs assigned by Acts of Congress to power for repayment; and

the assumptions and projections used in developing the rate components that are subject to Commission review.¹¹

11. The Commission is prohibited from reviewing policy judgments and interpretations of laws and regulations made by the power generating agencies.¹² The Commission may reject the rate determinations of Western's Administrator only if it finds them to be arbitrary, capricious, or in violation of the law, if they violate Department of Energy regulations (*e.g.*, Department of Energy Order No. RA 6120.2, which prescribes

financial reporting policies, procedures, and methodologies), or if they violate

⁹ See 18 C.F.R. § 385.214(d) (2005).

¹⁰ See Department of Energy Delegation Order No. 00-037.00, FERC Stats. & Regs. ¶ 9,919 (2001).

¹¹ *Id.*

¹² The power generating agencies include the Bureau of Reclamation, the Army Corps of Engineers, and the International Boundary and Water Commission. These agencies build and operate various projects. The power marketing administrations, such as Western, market the output of the projects.

agreements between Western's Administrator and the applicable power generating agency.

12. The Commission considers its role as that of an appellate body which reviews the record developed by the Administrator. In other words, the Commission does not develop a record on its own. Consequently, the Commission only confirms and approves, or remands, the rates submitted to it for final review.¹³

13. By statute,¹⁴ Western must repay the federal investment from power revenues within a reasonable period of time, which as a general practice is 50 years. Our review of Western's Power Repayment Study indicates that the revenues to be collected under the proposed rates will be sufficient to recover Western's costs, including the recovery of the remaining federal investment, with interest, over the remaining repayment period. Moreover, since the revenues generated by the proposed rates recover no more than Western's annual costs and the remaining federal investment, the rates are the lowest possible to customers. Our review also indicates that the Power Repayment Study was prepared in a manner consistent with Department of Energy Order No. RA 6120.2, which requires that Western's system financial statements must be prepared in accordance with generally accepted accounting principles, as appropriate, and that its Power Repayment Study be prepared using sound forecasting techniques designed to approximate as closely as possible actual results.

14. Because Western's proposed rates are consistent with the standards by which they must be judged, they merit final confirmation and approval.

15. Calpine and Roseville challenge Western's decisions regarding the rate treatment for certain services and the propriety of Western's ratemaking procedures. Such decisions are not within our jurisdictional purview, and so we will not remand the rates on this basis.¹⁵

¹³ See, e.g., *United States Department of Energy - Western Area Power Administration (Boulder Canyon Project)*, 61 FERC ¶ 61,229 at 61,844 (1992), *aff'd in relevant respects*, *Overton Power District No. 5 v. Watkins*, 829 F. Supp. 1523 (D. Nevada 1993), *vacated and remanded with directions to dismiss*, *Overton Power District No. 5 v. O'Leary*, 73 F. 3d 253 (9th Cir. 1996); *United States Department of Energy - Western Area Power Administration (Salt Lake City Area Integrated Projects)*, 59 FERC ¶ 61,058 at 61,240-41 & nn.17 & 20, *reh'g denied*, 60 FERC ¶ 61,002 (1992).

¹⁴ 16 U.S.C. § 825s (2000).

¹⁵ See, e.g., *Southeastern Power Administration (Jim Woodruff Project)*, 111 FERC ¶ 61,067 (2005); *United States Department of Energy—Bonneville Power*
(continued)

The Commission orders:

The Commission hereby confirms and approves on a final basis Western's proposed Rate Schedules CV-F11, CPP-1, CV-T1, CV-NWT3, CV-TPT6, COTP-T1, PACI-T1, CV-RFS3, CV-EID3, CV-SPR3, and CV-SUR3 applicable to the sale of power, transmission, and ancillary services for the period January 1, 2005 through September 30, 2009.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Administration, 107 FERC ¶ 61,138 (2004); *United States Department of Energy—Bonneville Power Administration*, 28 FERC ¶ 61,078 (1984) (noting that the court in *Central Lincoln Peoples' Utility District v. Johnson*, 735 F.2d 1101, 1115 (9th Cir. 1984), found that Congress intended to provide the Commission with limited review powers in order to avoid delay and streamline the ratemaking review process).